

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

United States of America

v.

Case No. 2:10-mj-364

Carlos W. Cook

ORDER

This matter is before the court for consideration of the Report and Recommendation issued by the magistrate judge in the above case. The report indicates that defendant underwent a mental evaluation, and that the psychologist who conducted the examination concluded that defendant was presently severely mentally ill and incapable of understanding the nature of the proceedings against him, or of assisting in his defense. The psychologist recommended that defendant be committed for the purpose of receiving treatment to restore him to competency. Counsel for defendant and the government agreed with this recommendation. The magistrate judge recommended that the defendant be committed to the custody of the Attorney General for treatment.

Counsel has informed the court that they have no objections to the Report and Recommendation. This court hereby adopts the Report and Recommendation (Doc. No. 15).

Based on the record, this court finds by a preponderance of the evidence that defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Pursuant to 18 U.S.C. §4241(d)(1), the defendant is hereby committed to the custody of the Attorney General, for a period not

to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward, and for such additional reasonable period of time for treatment until the defendant's mental condition is so improved that trial may proceed. The examiners shall submit a timely report to the court indicating the examiners' prognosis as to whether there is a substantial probability that the defendant may be restored to competency within the foreseeable future.

If the examiners determine that it is substantially unlikely that the defendant will attain competency to stand trial in the foreseeable future even if treated, then the Attorney General shall continue to maintain custody of the defendant for a period of time not to exceed forty-five days, pursuant to 18 U.S.C. §4247(b), for the purpose of conducting a psychiatric or psychological examination of the defendant pursuant to 18 U.S.C. §4246(b) to enable the director of the facility to determine whether the defendant is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to the property of another so as to warrant the filing of a certificate under 18 U.S.C. §4246(a). At the conclusion of such an examination, a report shall be filed with the court pursuant to 18 U.S.C. §4247(c).

Date: August 18, 2010

s/James L. Graham
James L. Graham
United States District Judge